

DEPARTMENT OF INDUSTRIAL RELATIONS

INDUSTRIAL MEDICAL COUNCIL

P. O. Box 8888

San Francisco, CA 94128

Tel. No.: (650) 737-2700 or 1-(800) 794-6900 Fax No.: (650) 737-2711

**65. SANCTION GUIDELINES FOR
QUALIFIED MEDICAL EVALUATORS****PART ONE****I. OVERVIEW**

The purpose of these guidelines is to provide a framework of the Industrial Medical Council (IMC) disciplinary process for those affected by it - Qualified Medical Evaluators, the IMC, administrative law judges with the Office of Administrative Hearings, licensing boards and other interested parties. These guidelines are not intended to be an exhaustive list of violations or disciplinary actions that the IMC may consider against any QME. Any violation of statutory or administrative duties may constitute grounds for discipline under these guidelines.

The IMC believes that education is the most effective course of action in resolving less serious regulatory violations. These guidelines also set out the parameters for discipline for misconduct considered serious.

The IMC recognizes the need to promulgate uniform guidelines for particular violations in order to establish consistency in imposing disciplinary sanctions for similar offenses. The IMC also recognizes that mitigating or aggravating circumstances in a specific case may necessitate variance from these guidelines.

In the event of a hearing, if an administrative law judge finds that the circumstances of a particular case are not adequately addressed in these guidelines, the IMC may request that the administrative law judge include in the proposed decision an explanation of the recommended sanction and/or terms of probation, so those circumstances are better understood by the IMC during its review of the case for ultimate action.

**II. FACTORS TO BE CONSIDERED IN DETERMINING DISCIPLINARY
PENALTIES**

In cases of violations of Labor Code sections 139.2(k) and 139.2(m) and/or section 60 of Title 8 of the California Code of Regulations, the IMC may impose discipline, up to and including suspension or termination, upon any physician certified by the IMC as a Qualified Medical Evaluator.

In determining the level of the penalty to be imposed in a given case, the following factors (8 CCR § 61) shall be considered:

- (1) the seriousness of the violation including actual or potential harm to the public and any mitigating or rehabilitation evidence;
- (2) whether or not a violation is an isolated incident or part of a pattern of behavior indicative of a disregard for the QME rules; e.g. (prior warnings of record; number and/or variety of current violations, time passed since the act(s) or offense(s));
- (3) whether or not a violation is intentional as opposed to negligent;
- (4) whether or not there is a history of previous violations cited under this section or by another court or tribunal (e.g.: prior disciplinary record, including level of compliance with disciplinary orders, compliance with terms of any criminal sentence, overall criminal record); and
- (5) whether or not further education or training would be beneficial.

III. Mitigating Evidence

A respondent may present evidence at a hearing or in the settlement process and shall have the burden of demonstrating mitigating circumstances and/or any rehabilitative or corrective measures he or she has taken. The IMC does not intend, by the following references to written statements, letters, and reports, to waive any evidentiary objections to the form of such evidence. The following are examples of appropriate evidence a respondent may submit to demonstrate his/her rehabilitative efforts and competency:

- a. Recent, dated written statements from persons in positions of authority who have on-the-job knowledge of the respondent's current competence in the practice of his or her specialty. Each statement should include the period of time and capacity in which the person worked with the respondent and should be signed under penalty of perjury. All letters will be subject to verification by IMC staff.
- b. Recent, dated letters from counselors regarding the respondent's participation in a rehabilitation or recovery program, where appropriate. These should include at least a description and requirements of the program, a psychiatric diagnosis and current state of recovery and the psychiatrist's/psychologist's basis for determining need for rehabilitation.
- c. Recent, dated letters describing respondent's participation in support groups, (e. g. Alcoholics Anonymous, Narcotics Anonymous, Professional Support Groups, etc.), where appropriate.

- d. Recent, dated laboratory analyses or drug screen reports, where appropriate.
- e. Recent, dated performance evaluation(s) from the respondent's employer(s).
- f. Recent, dated physical examination or assessment report by a licensed physician, if appropriate.

In the above examples, the mitigating circumstances and/or rehabilitative efforts shall be detailed in any proposed decision or any transmittal memorandum accompanying a proposed stipulation.

IV. Terms of Probation

If probation is imposed as part of a disciplinary action, the probation shall include:

(1) Standard conditions, which will apply in all cases; and may include (2) Optional conditions, which will vary according to the nature of the offense(s) in the particular case.

A. Standard Conditions

The number in parenthesis refers to the paragraph number found in the sample Model Disciplinary Order, found in Part II of these guidelines.

- 1. Obey all laws (#7);
- 2. File quarterly reports (#8);
- 3. Probation surveillance program compliance (#9);
- 4. Interviews with the Council's designee (#10);
- 5. Notation of probationary QME status (33);
- 6. Tolling of probation, if out of state or while QME status inactive (#11);
- 7. Violation of probation extends Council jurisdiction (#13);
- 8. Reporting probationary status to Licensing Board (#6);
- 9. Reporting probationary status to parties since date of prior licensing board action or prior conviction (#6);
- 10. QME certificate surrender (if suspended or terminated)(#14).

B. Optional Sanctions and Conditions of Probation

The following optional sanctions and conditions of probation may be imposed by the Council for proven or stipulated violations of the statutes or regulations cited.

Range of Optional Conditions:

1. Completion of a continuing education and/or ethics course related to the misconduct resulting in discipline (#17);
2. Completion of a QME ethics course (#17);
3. Monitoring of practice by another physician in the same area of practice, with periodic reports to the IMC (#23);
4. Pass a written exam administered by the IMC (#19);
5. Pass an oral exam administered by the IMC (#19);
6. (For sexual transgressions) Requiring the presence of a designated third person during all medical/legal exams (#21);
7. Undergo psychiatric evaluation and/or psychiatric treatment (#24, #25);
8. Structured supervised practice (#22);
9. Undergo medical evaluation or treatment (#26, #27);
10. Abstain from drugs (#31);
11. Abstain from alcohol (#33);
12. Biological fluid testing (#29);
13. Maintain Controlled Substances Log (#32);
14. Diversion program (#30);
15. Restitution of monies received (#20);
16. Actual suspension during probation (#16);
17. Require QME to submit up to the next 5 med/legal reports to IMC (#34);
18. Print and distribute corrected information after advertising violation (#36).

The IMC may also impose other conditions appropriate to the case which are not contrary to public policy or existing law.

V. Violations of material statutory or administrative duties and Recommended Sanctions

The IMC may impose disciplinary sanctions for violations by a Qualified Medical Evaluator of any material statutory or administrative duty (Labor Code §139.2(k)(1)).

Actions by a Qualified Medical Evaluator for which disciplinary action is appropriate are specified in the California Labor Code, the California Business and Professions Code, the California Penal Code, and Titles 8 and 16 of the CCR.

Accordingly, the following, disciplinary sanctions shall be applied by the IMC when a QME is found to be in violation of a material statutory and/or administrative duty.

A. MAXIMUM SANCTIONS

1. Maximum Sanction: Revocation of QME status.
2. Violations of material statutory administrative duties which shall result in the maximum sanctions are:

- a. Professional licensure has been terminated (LC § 139.2(m));
- b. Conviction of a felony or misdemeanor (including billing/insurance fraud) related to the conduct of the physician's practice (LC § 139.2(m));
- c. Conviction of a felony or misdemeanor for a crime of moral turpitude (LC § 139.2(m));
- d. Arranging for the impersonation of or impersonating a physician in the QME competency exam;
- e. Arranging for the impersonation of or impersonating another physician during QME evaluation;
- f. Performing QME evaluations while knowing that their QME status is suspended;
- g. Failure to file a notice of defense to an accusation filed by the IMC or failure to appear at disciplinary hearing initiated by the IMC;
- h. Failure to pay the required QME fee (LC § 139.2(n));
- i. False statements made under penalty of perjury relating to applicant/QMEs licensing and/or specialty credentials.

3. If warranted, the maximum penalty can be imposed in any case.

B. VIOLATIONS OF MATERIAL STATUTORY/ADMINISTRATIVE DUTIES WHICH MAY RESULT IN ALTERNATIVE SANCTIONS

1. SEXUAL MISCONDUCT - LC § 139.2(k); BPC § 726

Minimum sanction: Stayed revocation, 7 years probation and:

1. Approved education course on sexual harassment, to be completed within 90 days (#17); and
2. Require third party present during all workers' compensation related evaluations and treatment (# 21); and

If warranted, any of all of the following:

1. Psychiatric evaluation and/or psychotherapy (#24, #25);
2. Required supervised workers' compensation related practice environment (#22 or #23);
3. Actual suspension at least one (1) year, under the criteria of Section II.

2. ABUSE OF DRUGS OR ALCOHOL AND/OR INTOXICATION WHILE EVALUATING OR TREATING PATIENTS (LC § 139.2(k); BPC § 2239; BPC § 2240)

Minimum sanction: Stayed revocation, five (5) years probation and:

1. Evaluation by Diversion Program of appropriate licensing board and follow its recommendations;
2. If a Diversion Program is not available through the licensing board, then

will be evaluated by an alcohol/drug rehabilitation program acceptable to the IMC and will follow its recommendations;

3. Allow the pertinent program to report on status to the IMC;
4. Abstain from use (#31, #33); and

If warranted:

5. Cease performing QME evaluation while being evaluated by the Diversion Program;
6. Biological fluid testing (#29);
7. Maintain controlled substances log (#32);
8. Structured supervised practice (#22);
9. Monitored practice (#23);
10. Oral or written exam (#19);
11. Actual suspension.

3. BILLING/INSURANCE FRAUD or SUBMITTING FALSE DOCUMENTS (LC § 139.2(k); BPC § 2234(e); BPC § 2261; BPC § 810)

Minimum sanction: Stayed revocation and 5 years probation, and:

If warranted, any or all of the following:

1. Approved ethics course within 90 days (#17);
2. Restitution of amounts received (#20);
3. Pass oral or written exam (#19);
4. Actual suspension at least 6 months, under the factors of Section II;
5. Maximum sanctions.

4. FALSE STATEMENTS MADE UNDER PENALTY OF PERJURY ON IMC APPLICATION FORMS or OTHER IMC DOCUMENTS (LC § 139.2(k); 8 CCR § 11; LC § 139.2(b); LC § 139.2(c); LC § 139.2 (d); BPC § 2234(e); BPC § 2261)

(Ex.: False statement on QME exam application, appointment application or reappointment application regarding:

- probationary professional license status;
- past criminal conviction related to professional practice;
- completion of minimum continuing education, teaching or practice criteria for appointment or reappointment;
- time spent in direct patient treatment;
- number of QME or AME evaluations done in prior year(s) for purpose of annual fee or for reappointment;
- extent of AME work in lieu of direct patient treatment;

Representing self as QME with active status when status lapsed).

Minimum sanction: Stayed revocation and 5 years probation, and:

If warranted, any or all of the following:

1. Actual suspension at least 90 days (#16) under the factor of Section II;

2. Approved ethics course within 90 days (#17).

5. ADVERTISING VIOLATIONS - LC § 139.2(k); LC §139.4; LC §§ 5430 - 5434; 8 Cal. Code Regs. § 153; 8 Cal. Code Regs. §§ 9820 – 9837

- misleading or deceptive advertising - BPC § 2271, 651
- failure to include required fraud warning - LC §§ 5432, 5433
- anonymous advertising - BPC § 2272
- misuse of title 'M.D.', 'D.O.', 'doctor', etc. §§ 2275, 2276
- use of fictitious name without permit (BPC § 2285)

Minimum sanction: Educational material to be provided by the IMC, and:

If warranted, any or all of the following:

1. Stayed revocation 3 years probation;
2. Approved ethics course within 90 days(#17);
3. Oral or written exam by IMC (#19);
4. Print and distribute correct information (#37);
5. Pay for ad(s) in WC publications advising readers of statutes and regulations on permissible advertising (#38);
6. Actual suspension at least 90 days (#16) under the factors of Section II;
7. Maximum sanctions.

6. SOLICITING OR PROVIDING TREATMENT IN COURSE OF QME EVALUATION - LC 139.2(k); 8 CCR § 11(d)

Minimum sanction: Educational material to be provided by the IMC, and:

If warranted, any or all of the following:

1. Stayed revocation, one (1) year probation;
2. Approved ethics course (#17) within 90 days;
3. Restitution of amounts received for report to payor (#20);
4. Actual suspension at least 30 days (#16) under the factors of Section II.

7. SELF INTERESTED REFERRAL (LC § 139.2(k); LC § 3215; 8 CCR § 41(c)(1); LC §139.3)

Minimum sanction: Educational materials to be provided by IMC, and:

If warranted, any or all of the following:

1. Stayed revocation and five (5) years probation;
2. Restitution of amounts received from unlawful referrals (#20);
3. Approved ethics course within 90 days (#17);
4. Actual suspension one (1) year (#16), under the factors of Section II;
5. Maximum sanctions.

8. EX PARTE COMMUNICATION - LC § 139.2(k), LC § 4062.2, 8 CCR § 41(b)

Minimum sanction: Educational material to be provided by the IMC, and:

If warranted, any or all of the following:

1. Stayed revocation, one (1) year probation;
2. Approved ethics course within 90 days (#17);
3. Restitution of amounts received for report to payor (#20);
4. Actual suspension at least 30 days, under the factors of Section II;
5. Maximum sanctions.

9. VIOLATIONS OF QME ETHICAL and/or OTHER REGULATIONS

- refusing to schedule unrepresented cases (8 CCR § 41(a)(2))
- routinely requiring IWs to wait over one hour (8 CCR § 41)
- rescheduling panel QME exam 3 or more times per case (8 CCR § 41(a)(2))
- unavailable for QME panel exam within 60 days of appointment request (8 CCR § 33(c))
- switching location of QME exam to address not on QME panel letter (8 CCR § 34(b))
- failing to serve QME appointment notification form/3 or more instances (8 CCR § 34(a))
- failure to submit evaluations upon request by the Medical Director

Minimum sanction: Educational material to be provided by the IMC

If warranted, any or all of the following:

1. Stayed revocation six (6) months probation under the factors of Section II;
2. Approved ethics course within 90 days (#17);
3. Oral or written exam by IMC (#19);
4. Actual suspension up to 15 days (#16) under the criteria of Section II.

10. FALSE STATEMENTS IN MEDICAL/LEGAL REPORT (LC § 139.2(k); 8 CCR § 41(c)(4); LC § 4628, INCLUDING GHOSTWRITING)

- Involving a reckless disregard for available information or facts known to the physician.

Minimum sanction: Stayed revocation and five (5) years probation, with:

1. Approved ethics course within 90 days (#17); and

If warranted, any or all of the following:

2. Actual suspension, up to one year under the factors of Section II or
3. Maximum sanctions.

11. FAILURE TO SPEND REQUISITE FACE - TO - FACE TIME

- minimum face-to-face time in evaluation (LC § 139.2(k); LC § 4628; 8 CCR § 49 et seq.)
- in billing for medical/legal report (LC § 139.2(k); LC § 4628; 8 CCR § 9795).

Minimum sanction: Educational materials to be provided by the IMC.:

If warranted, any or all of the following:

1. Stayed revocation, up to one (1) year probation and
2. Approved education course on related workers' compensation billing regulations (#17);
3. Restitution to payor (#20);
4. Approved ethics course, to be completed within 90 days (#17);
5. Actual suspension of at least 90 days, under the factors of Section II;
6. Maximum sanctions.

12. KNOWING MISREPRESENTATION OR INTENTIONAL - FAILURE TO DISCLOSE ROLES OF OTHERS ASSISTING WITH MEDICAL/LEGAL EVALUATION OR REPORT - LC § 139.2(k); LC § 4628

Minimum sanction: Stayed revocation, one (1) year probation, and:

If warranted, any or all of the following:

1. Educational material to be provided by the IMC;
2. Approved ethics course within 90 days (#17);
3. Restitution of amounts received for report to payor (#20);
4. Actual suspension at least 90 days, under the criteria of Section II (#16);
5. Maximum sanctions.

13. PERFORMING UNNECESSARY MEDICAL TESTS IN CAPACITY AS QME or AME (LC § 139.2(k); 8 CCR § 41(a)(3); BPC § 725; BPC § 2234(e))

Minimum sanction: Educational material to be provided by the IMC, and:

If warranted, any or all of the following:

1. Stayed revocation and up to five (5) years probation, and;
2. Restitution of amounts received for unnecessary tests (#20);
3. Pass oral or written exam (#19);
4. Completion of an approved clinical course (#18);
5. Approved ethics course within 90 days (#17);
6. Actual suspension, at least 90 days under the factors of Section II;
7. Maximum sanctions.

14. LATE REPORTS - LC §139.2(k); LC § 139.2(j)(1); 8 CCR § 38; 8 CCR § 60(b)(4) (3 or more instances)

Minimum sanction: Educational material to be provided by the IMC, and:

If warranted, any or all of the following:

1. Stayed of revocation, six (6) months probation;
2. Approved ethics and/or office management course within 90 days (17);
3. Suspension of 30 days (#16) under the factors of Section II.

15. FAILURE TO FOLLOW IMC EVALUATION GUIDELINES

(LC § 139.2(h); LC § 139.2(k); LC § 4628; 8 CCR § 41(c)(5))

- Involving 3 or more instances

Minimum sanction: Educational material to be provided by the IMC, and:

If warranted, any or all of the following:

1. Approved course in medical/legal report writing within 90 days (#17);
2. Stayed revocation, one (1) year probation;
3. Actual suspension 30 days (#16), under the factors of Section II.

16. REPORT DEFICIENCIES (LC § 139.2(k))

- Defective declaration(s) required by LC § 4628;
- Serving an unsigned report;
- Omitting discussion in a report of relevant information provided to QME;
- Inadequate or incorrect discussion of factors of disability;
- Other report deficiencies identified by IMC quality review panel;
- Determinations by DEU that a report is not ratable;
- Decisions of Administrative Director granting rating reconsideration;
- Omitting declaration(s) required by LC § 4628.

Minimum sanction: Educational material to be provided by the IMC, and:

If warranted, any or all of the following:

1. Require QME to submit up to five medical/legal reports to the IMC medical/legal quality review staff (#35);
2. Approved course(s) in medical/legal report writing within 90 days (#17);
3. Oral or written exam by IMC (#19);
4. Probation (six (6) months).

17. REPORT DEFICIENCIES AFFECTING ADMISSIBILITY

(LC § 139.2(k))

- Three Finding(s) by WCJ under LC § 4628(e) or LC § 139.2(d)(2)

Minimum sanction: Stayed revocation, one (1) year probation, and:

If warranted, any or all of the following:

1. Approved course(s) in medical/legal report writing within 90 days (#17);
2. Require QME to submit next five medical/legal reports to the IMC medical/legal quality review staff (#35);
3. Oral or written exam by IMC (#19).

18. VIOLATION OF PROBATION

Minimum sanction: Impose an actual period of suspension (Refer to #3, #4, or #5)

PART TWO. SAMPLE MODEL ORDERS

1. REVOCATION - SINGLE CAUSE

QME certificate number(s) _____ issued to Respondent _____ is/are revoked.

2. REVOCATION - MULTIPLE CAUSES

QME certificate number(s) _____ issued to Respondent _____ is/are revoked, pursuant to the Determination of Issues (Ex. I, II, and III separately and for all of them.)

3. ACTUAL SUSPENSION - SINGLE CAUSE

QME certificate number(s) _____ issued to Respondent _____ is/are suspended for (state time period). Actual suspension starts on the 16th day after the effective date of this decision.

4. ACTUAL SUSPENSION - MULTIPLE CAUSES (TO RUN CONCURRENTLY)

QME certificate number(s) _____ issued to Respondent _____ is/are suspended for (state time period), pursuant to Determination of Issues (enter ¶ numbers), separately and for all of them. All suspensions shall run concurrently. Actual suspension starts on the 16th day after the effective date of this decision.

5. ACTUAL SUSPENSION - MULTIPLE CAUSES (TO RUN CONSECUTIVELY)

QME certificate number(s) _____ issued to Respondent _____ is/are suspended for (state time period), pursuant to Determination of Issues (enter ¶ number(s)); and (state time period), pursuant to Determination of Issues (enter ¶ number(s)). These suspension shall run consecutively, for a total period of (enter total time period). Actual suspension starts on the 16th day after the effective date of this decision.

6. STANDARD STAY ORDER

However, (revocation/suspension) is stayed and Respondent _____ is placed on probation for (enter time period) upon the following terms and conditions. Within 15 days after the effective date of this decision, the

Respondent shall provide the Industrial Medical Council (IMC), or its designee, proof that Respondent has served a true copy of this decision on:

- a) Respondent's professional licensing board in California;
- b) Every party for whom Respondent has a pending QME or AME evaluation exam or medical/legal report due;
- c) The Administrative Director of the Division of Workers' Compensation, for distribution to Workers' Compensation Administrative Law Judges;
- d) The President of the California Applicants' Attorneys Association;
- e) The President of the California Defense Attorneys Association.

In the event Respondent's probation was imposed by the IMC pursuant to Labor Code § 139.2(m), due to an order by Respondent's professional licensing board which suspended or imposed probationary status on Respondent's professional license, or due to a misdemeanor or felony conviction related to Respondent's practice or for a crime of moral turpitude, Respondent shall also provide the IMC proof that a true copy of this decision was served on every party for whom Respondent wrote a medical/legal report from the date of the licensing board action or the date of the criminal conviction until the effective date of this decision.

OTHER STANDARD CONDITIONS OF PROBATION

7. OBEY ALL LAWS

Respondent shall obey all federal, state and local laws and regulations, all rules governing practice as a Qualified Medical Evaluator, all rules in California governing Respondent's professional area of practice, and remain in full compliance with any court ordered criminal probation, payments and other orders.

8. QUARTERLY REPORTS

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the IMC, stating whether there has been compliance with all the conditions of probation.

9. PROBATION SURVEILLANCE PROGRAM COMPLIANCE

Respondent shall comply with the IMC's probation surveillance program. Respondent shall, at all times, keep the IMC informed

of his or her addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the assigned IMC probation monitor. Under no circumstances shall a post office box serve as an address of record.

Respondent shall also immediately inform the IMC, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

10. INTERVIEW WITH THE IMC, ITS DESIGNEE OR ITS DESIGNATED PHYSICIANS

Respondent shall appear in person for interviews with the IMC, its designee or its designated physician(s) or medical consultant(s), upon request at various intervals and with reasonable notice.

11. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE, FOR PERIODS OF INACTIVE QME STATUS, OR FOR IN-STATE NON-PRACTICE

In the event Respondent should leave California to reside or to practice outside the State, or for any reason should Respondent's QME status become inactive in California, Respondent shall notify the IMC probation monitor in writing within ten (10) days of the dates of departure and return, or the dates of inactive QME status in California. Non practice is defined as any period of time exceeding thirty (30) days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code. All time spent in an intensive training program approved by the IMC or its designee shall be considered as time spent in practice.

Periods of temporary permanent residence or practice outside California or periods of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary period.

12. COMPLETION OF PROBATION

Upon successful completion of probation, Respondent's QME certificate(s) shall be fully restored.

13. VIOLATION OF PROBATION

If Respondent violates probation in any respect, the IMC, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent

during probation, the IMC shall have continuing jurisdiction until the matter is final and the period of probation shall be extended until the matter of the new accusation or petition to revoke is final.

14. QME CERTIFICATE SURRENDER

Following the effective date of this decision, if Respondent ceases practicing as a Qualified Medical Evaluator, due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily tender his/her QME certificate(s) to the IMC. The IMC reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered QME certificate(s), Respondent will no longer be subject to the terms and conditions of probation.

15. NOTATION OF PROBATIONARY QME STATUS

Upon the effective date of this decision, the IMC shall make a notation on each letter sent to an unrepresented injured worker, which lists Respondent's name on a panel of QMEs, indicating that Respondent is currently on probation as a QME. IMC also shall make a notation next to Respondent's name wherever it appears in each QME roster issued during the period in which Respondent is on probation on the date the roster is issued. Respondent shall answer truthfully any questions from injured workers or other parties about Respondent's probationary QME status.

OPTIONAL CONDITIONS OF PROBATION

16. ACTUAL SUSPENSION AS PART OF PROBATION

As part of probation, Respondent is suspended from performing any function as a Qualified Medical Evaluator or an Agreed Medical Evaluator for (enter total time period for suspension), beginning on the sixteenth (16th) day after the effective date of this decision.

17. APPROVED ETHICS OR OTHER EDUCATIONAL COURSE

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the IMC or its designee for its prior approval an educational course on forensic evaluator ethics, or on matters related to the violation(s) charged in the accusation, or both. Said course(s) shall be successfully completed by Respondent (enter time for completion), and in any event no later than during the first year of probation. Respondent shall provide the IMC or its designee with proof of attendance at such course(s).

Completion of any such course required as a term of probation shall be in addition to the continuing medical education requirements for reappointment as a Qualified Medical Evaluator.

Following completion of each course ordered as a term of probation, the IMC or its designee may administer an examination to test Respondent's knowledge of the course(s).

18. CLINICAL TRAINING

Within sixty (60) days of the effective date of this decision, Respondent shall submit to the IMC for its prior approval a clinical training or educational program. The exact number of hours and the specific content of the program shall be determined by the IMC or its designee and shall be related to the violations charged in the accusation. Respondent shall successfully complete the training program and may be required to pass an examination administered by the IMC or its designee related to the program's contents prior to performing work as a Qualified Medical Evaluator or Agreed Medical Evaluator.

19. ORAL, CLINICAL OR WRITTEN EXAM

Within sixty (60) days of the effective date of this decision, (or upon completion of the required education or ethics course) (or upon completion of the required clinical training program), Respondent shall take and pass a(n) (oral, clinical and/or written) examination to be administered by the IMC or its designee. If Respondent fails this examination, Respondent must wait three months between reexaminations, except that after three failures Respondent must wait one year to take each necessary reexamination thereafter. Respondent shall pay the costs of all examinations.

(Use either of the following paragraphs with the above paragraph):

OPTION #1: CONDITION PRECEDENT

Respondent shall not perform any functions as a Qualified Medical Evaluator or Agreed Medical Evaluator until Respondent has passed this examination and has been so notified by the IMC in writing.

OPTION #2: CONDITION SUBSEQUENT

If Respondent fails to take and pass the first examination, Respondent shall cease performing any functions as a Qualified Medical Evaluator or an Agreed Medical Evaluator until this examination has been successfully passed and Respondent has been so notified by the IMC in writing.

20. RESTITUTION

Respondent shall provide restitution to _____ in the amount of \$ _____ prior to completion of the first year of probation.

21. THIRD PARTY PRESENCE - SEXUAL TRANSGRESSIONS

During probation, Respondent shall have a third party present while examining, evaluating or treating (enter appropriate: male/female/minor) injured workers. Respondent shall, within fifteen (15) days of the effective date of the decision, submit to the IMC or its designee, for its approval, the name(s), business and home phone number(s), and business address, of the persons who will act as the third party present. Respondent shall execute a written release authorizing the designated third party(s) to divulge any information that the IMC may request during interviews by the probation monitor on a periodic basis.

22. SUPERVISED STRUCTURED PRACTICE

Respondent is prohibited from engaging in solo practice. Within thirty (30) days of the effective date of this decision, Respondent shall submit to the IMC and receive its prior approval for a plan of practice limited to a supervised, structured environment in

which respondent's activities will be overseen and supervised by another QME, who shall provide periodic reports to the IMC.

23. MONITORED PRACTICE

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the IMC and receive its prior approval for a plan of practice in which Respondent's activities as a QME or AME will be monitored by another QME, who shall provide periodic reports to the IMC or its designee.

If the monitor resigns or is no longer available, Respondent shall, within five (5) days, provide the IMC or its designee the name, address and phone number of a new monitor, for the IMC's approval.

Respondent shall execute a written release authorizing the designated third party(s) to divulge any information that the IMC may request during interviews by the probation monitor on a periodic basis.

24. PSYCHIATRIC EVALUATION

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter as may be required by the IMC or its designee, Respondent shall undergo a psychiatric evaluation by a psychiatrist/psychologist appointed by the IMC. The appointed evaluator shall furnish a report to the IMC or its designee.

If Respondent is required by the IMC or its designee to undergo psychiatric treatment, Respondent shall within thirty (30) days of the requirement notice, submit to the IMC for its prior approval the name and qualifications of a psychotherapist of Respondent's choice. Upon approval of the treating psychotherapist, Respondent shall undergo and continue psychiatric treatment until further notice from the IMC. Respondent shall have the treating psychotherapist submit quarterly status reports to the IMC.

(OPTIONAL)

Respondent shall not perform any function as a Qualified Medical Evaluator or an Agreed Medical Evaluator until notified by the IMC of its determination that Respondent is mentally fit to resume such forensic practice.

25. PSYCHIATRIC TREATMENT

Within sixty (60) days of the effective date of this decision, Respondent shall submit to the IMC for its prior approval the name and qualifications of a psychotherapist of Respondent's choice. Upon approval, Respondent shall undergo and continue treatment until his or her treating psychotherapist (i.e. psychiatrist, psychologist, other licensed mental health practitioner) deems that no further psychiatric treatment is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the IMC. The IMC may require Respondent to undergo psychiatric evaluations by an IMC-appointed psychiatrist/psychologist.

(Note: This condition is for those cases where the evidence demonstrated that the respondent has had impairment [i.e. impairment by mental illness, alcohol abuse and drug self abuse] related to the violations but is not at present a danger to his/her patients.)

26. MEDICAL EVALUATION

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter as may be required by the IMC or its designee, Respondent shall undergo a medical evaluation by an IMC appointed physician who shall furnish a medical report to the IMC or its designee.

If Respondent is required by the IMC or its designee to undergo medical treatment, Respondent shall within thirty (30) days of the requirement notice, submit to the IMC for its prior approval the name and qualifications of a physician of Respondent's choice. Upon approval of the treating physician, Respondent shall undergo and continue medical treatment until further notice from the IMC. Respondent shall have the treating physician submit quarterly reports to the IMC.

(OPTIONAL)

Respondent shall not perform any functions as a Qualified Medical Evaluator or an Agreed Medical Evaluator until notified by the IMC of its determination that Respondent is medically fit to resume forensic practice safely.

(NOTE: This condition is for those cases where the evidence demonstrates that medical illness or disability was a contributing cause of the violations.)

27. MEDICAL TREATMENT

Within sixty (60) days of the effective date of this decision, Respondent shall submit to the IMC for its prior approval the name and qualifications of a physician of Respondent's choice. Upon approval, Respondent shall undergo and continue treatment until the IMC deems that no further medical treatment is necessary. Respondent shall have the treating physician submit quarterly reports to a physician appointed by the IMC to evaluate Respondent. Such reports shall indicate whether Respondent is capable of practicing forensic medicine safely. The IMC may require Respondent to undergo periodic medical evaluations by an IMC appointed physician. The Respondent shall pay the costs of all required evaluations.

(Note: This condition is for those cases where there is evidence that medical illness or disability was a contributing cause of the violations but the Respondent is not at present a danger to his/her patients.)

28. BIOLOGICAL FLUID TESTING

Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon the request of the IMC or its designee.

29. DIVERSION PROGRAM

Within thirty (30) days from the effective date of this decision, Respondent shall enroll and participate in a diversion program designated by the IMC or its designee, until the IMC determines that further treatment and rehabilitation is no longer necessary. Quitting the program without permission or being expelled for cause shall constitute a violation of probation by Respondent.

30. DRUGS - ABSTAIN FROM USE

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Business and Professions Code, or any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.

31. CONTROLLED DRUGS - MAINTAIN RECORD

Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by Respondent during probation, showing all the following: 1) the name and address of patient, 2) the date, 3) the character and quantity of controlled substances involved, and 4) the indications and diagnoses for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the IMC or its designees, upon request.

32. ALCOHOL - ABSTAIN FROM USE

Respondent shall abstain completely from the use of alcoholic beverages.

33. NOTATION OF PROBATIONARY QME STATUS

Upon the effective date of this decision, the IMC shall make a notation on each letter sent to an unrepresented injured worker, which lists Respondent's name on a panel of QMEs, indicating that

Respondent is currently on probation as a QME. IMC also shall make a notation next to Respondent's name wherever it appears in each QME roster issued during the period in which Respondent is on probation on the date the roster is issued. Respondent shall answer truthfully any questions from injured workers or other parties about Respondent's probationary QME status.

34. SUBMISSION OF REPORTS TO THE IMC

Respondent shall submit to the IMC copies of the next five medical/legal reports written by Respondent after the effective date of this decision, in the capacity of a Qualified Medical Evaluator. Respondent shall submit a copy of each such report to the IMC probation monitor within 10 working days of forwarding the report to any party in the case.

35. USE OF TERMINOLOGY REGARDING AREA OF PRACTICE OR SPECIALTY

Respondent shall ensure all statements regarding Respondent's professional training and area of practice, appearing on letterhead, advertising, business cards, web sites and other public communications, conform to the provisions of Business and Professions Code 651. Further, Respondent shall refrain from using terms, including (state specific terms or phrases used which resulted in discipline). Respondent further agrees to (add specific terms as applicable to case).